

OFFICE OF THE COMMISSIONER OF FINANCIAL REGULATION

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2022 Regulatory Highlights

AGENDA:

- Welcome and Introduction
- Banking Updates
- Money Transmission Updates
- Break
- Mortgage Updates
- Consumer Protection Issues
- Q&A and Wrap-Up

**June 9, 2022
2:00 PM ET**

Welcome to Today's Session

The Office of the Commissioner of Financial Regulation (OCFR) is Maryland's consumer financial protection agency and financial services regulator.

FY 2023 Goals:

- 1) Continue OCFR's tradition of strong consumer protection actions.
- 2) Engage in effective and impactful regulatory and supervisory activities.
- 3) Enhance investment in staff to improve the Office/staff's efficiency and effectiveness, engagement, and morale.
- 4) Enhance community and industry engagement and Education.
- 5) Develop an understanding of OCFR's currently collected data and its uses and identify OCFR's current and future data needs all to improve decision-making and chart OCFR's course.
- 6) Strengthen OCFR's collaboration with sister state regulators in creating a system of depository and non-depository cooperation, networked supervision, and enforcement.



Antonio P. Salazar
Commissioner of Financial Regulation, State of Maryland



2022 Fiscal Year Highlights

During today's webinar we will highlight key updates and activities, provide guidance to industry and consumers, and share information on trends and topics of interest to the Office.

Over the past fiscal year, OCFR has:

- ✓ Increased focus on industry and consumer engagement
- ✓ Undertaken significant enforcement actions
- ✓ Updated foreclosure-prevention resources and materials
- ✓ Released a report on banking conditions
- ✓ Hired new staff and upgraded office technology
- ✓ *And more...!*



Antonio P. Salazar
Commissioner of Financial Regulation, State of Maryland



Banking Updates

Greg Thoreson, Deputy Commissioner

Michelle Denoncourt, Assistant Commissioner

- Cybersecurity
- Climate Change
- Cannabis-Related Banking
- Bank-Fintech Partnerships
- New Maryland Legislation (Banking-Related)
- Unauthorized Representation as a Bank
- Lending Requirements for Other-State Financial Institutions

Cybersecurity

Defense is critical; pay close attention to potential weak links at primary infection points.

Financial institutions should:

- Incorporate Confidentiality, Integrity, Availability concepts throughout your institution's governance principles.
- Test incident response plan on regular basis.
- Establish clear requirements for review and implementation of CISA guidance.
- Keep regulators informed.
 - OCFR has networks that may be of assistance in the event of a breach.
 - **Notify OCFR of all computer security incidents.**



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Greg Thoreson, Deputy Commissioner



Climate Change

Financial institution boards and management should be having discussions to continually enhance their understanding of climate change-related risks for their institution.

OCFR is evaluating a collaborative approach with the industry by providing information for financial institutions to consider in their risk analyses:

- Risks to physical assets that could lead to losses for institutions through lower household wealth and lower corporate profitability
- Risks from transitions that occur in the economy that may impact the value of assets
- Strategic risks that arise as institutions pursue new business strategies and opportunities in the context of climate-related changes



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Greg Thoreson, Deputy Commissioner*



Cannabis-Related Banking

Boards and management need to understand the concept of cannabis-related banking and the associated risks, and define and document risk limits and tolerances.

- Even if the financial institution chooses to not offer products and services to those businesses, it must have policies that address cannabis-related businesses. Policies should:
 - Clearly state the institution's position as to whether it does or does not service cannabis-related businesses; and
 - Define marijuana and hemp as cannabis-related products and define "cannabis-related businesses".
- Proper training is crucial.
 - BSA/AML training should include cannabis, marijuana, and hemp.
 - Personnel must be trained and aware of the "customer due diligence" and "know your customer practices" that can effectively identify potential cash flows derived from cannabis and/or cannabis-related activities.

If you are considering offering banking services to cannabis-related businesses, please contact OCFR prior to implementing any services or products.



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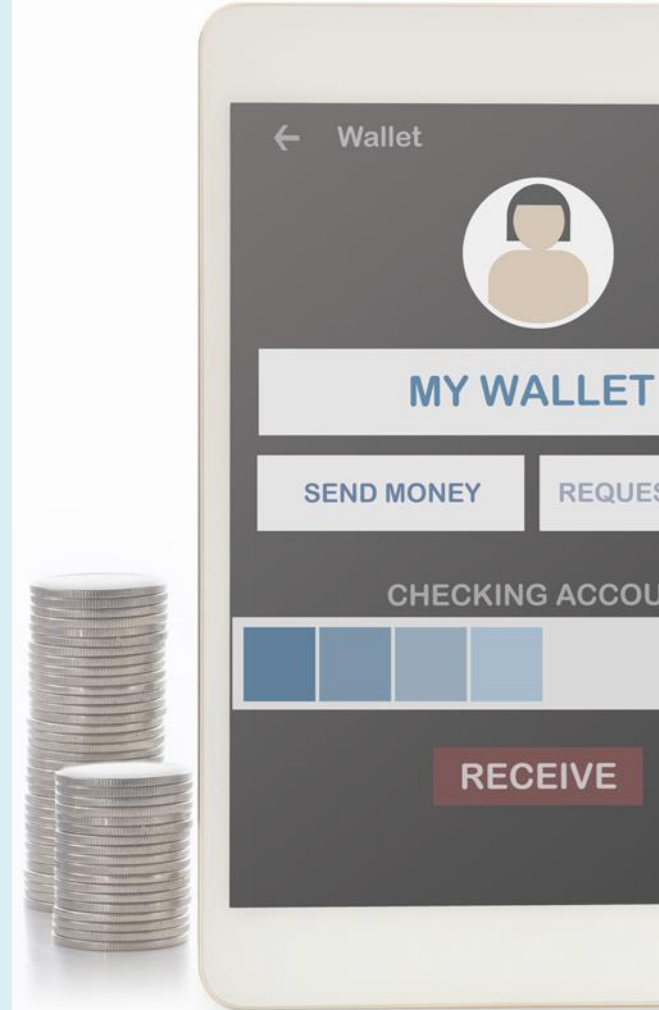
Bank-Fintech Partnerships

OCFR's focus is on implementing a competitive landscape in the laws governing financial services, by ensuring activity is properly licensed and examined, and that relevant Maryland laws are followed.

- In 2021, OCFR filed charges against the Bank of Missouri, Atlanticus Services and Fortiva Financial in connection with a lending program marketed to Maryland consumers.
 - OCFR cited failures to obtain licenses by each of the parties in connection with the marketing, lending and collection programs for Maryland consumers.
 - OCFR alleges loans to Maryland consumers are unenforceable and the lenders are prohibited from collecting the principal on any of the loans made.
- OCFR is monitoring national activity regarding "Buy Now Pay Later" (BNPL) products.
 - BNPL structured to avoid TiL with only 4 payments; not reported to credit bureaus unless there is a default on one of the final 3 payments; creates a gap in credit bureau information, as BNPL obligations will not be part of credit file
 - Equifax announced it was starting a process to enable BNPL providers to report.



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New Maryland Legislation, Banking-Related (2022)

- **SB 175 "Fiduciary Institutions - Investigation of Financial Abuse and Financial Exploitation - Records Disclosure"**
 - Allows fiduciary institutions to share otherwise confidential financial information of a customer that may be the subject of financial abuse or exploitation to investigators with an adult protective services agency within a local government
 - Effective Date - October 1, 2022
- **HB 305 "Financial Institutions - Presumption of Property Abandonment - Revisions"**
 - Property is presumed abandoned three years after the later of the date: (1) the financial institution is deemed to no longer have a valid address for the owner of the property or (2) the date the owner has last interacted with the financial institution through certain specified action.
 - Effective Date - October 1, 2022



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Greg Thoreson, Deputy Commissioner



Unauthorized Representation as a Bank

**Maryland law prohibits unauthorized representation as a bank to protect Maryland consumers and banks that are authorized to do business in Maryland.
[FI 5-806 representation to the public]**

- Companies offering financial services that are not banks or trust companies may not use the word “bank” or “trust company” in their name.
- A bank or trust company that seeks to use “bank” or “trust company” in their name must request OCFR’s determination that it is a permissible use.
- *Chime* case (2021) – Chime forced to stop using “chimebank” in its website address, allegedly in violation of a California state law that is meant to prevent businesses from misleading the public; and prohibited from using the terms “bank” and “banking” elsewhere in its advertisements.



*Office of the Commissioner of Financial Regulation
Michelle Denoncourt, Assistant Commissioner*



Other-State Financial Institutions (Lending Requirements)

Any other-state bank that does not have a branch in Maryland needs a license to be a mortgage lender in Maryland, and must qualify and register to do business in Maryland with the State Department of Assessments and Taxation (SDAT).

[FI 11-504 mortgage license or registration requirement]

- OCFR's permission to use "bank" in the name is required to register with SDAT.
- Other-state banks that have a branch in Maryland are exempt from having a mortgage license.
- Other-state banks are required to have a foreign bank office permit for a physical office in Maryland (FI 12-207) or employees in Maryland working from a home office.
- Other-state banks should contact OCFR about specific installment loan licensing requirements (FI 11-302(b)).



*Office of the Commissioner of Financial Regulation
Michelle Denoncourt, Assistant Commissioner*



Money Transmission Updates

Clifford Charland, Assistant Commissioner (Acting)
*Sabrina Brown, Director of Money Services and
Consumer Credit Supervision*

- State Examination System
- Changes to Regulation
- Virtual Currency

State Examination System (SES)

OCFR has adopted SES for money transmission examinations.

- Information requests are sent and returned securely through the system.
- Licensees can assign and track information requests.
- Licensees are expected to onboard to the system and designate contacts.



Money Transmission Regulation

Changes to money transmission regulation are under consideration.

- To foster uniformity and coordination in states' regulation of money transmitters by standardizing:
 - Definitions
 - Exemptions from licensure
 - Licensing processes, including determination of control persons
 - Safety and soundness requirements
- Model language and FAQs are available on the Conference of State Bank Supervisors (CSBS) website.

Virtual Currency

Transmittal of virtual currency is governed by the Maryland Money Transmission Act (FI 12-401 *et seq*). New business models are reviewed by an OCFR internal committee to ensure thorough analysis and consistency in interpretations.



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Clifford Charland, Assistant Commissioner (Acting)



BREAK

10 minutes

Mortgage Updates

Clifford Charland, Assistant Commissioner (Acting)

- **Changes to Regulation - Mortgage and Foreclosure Procedures**
- **Foreclosure Registration System**
- **Maryland Homeowner Assistance Fund**
- ***REES* Case**
- ***Carrington* Decision**

Changes to Mortgage Regulation

Maryland is adopting prudential standards.

- Implements multistate standards facilitated by CSBS
- Clarifies definition of “mortgage servicer” for regulatory purposes
- Requires risk management program
- Establishes standards for corporate governance
- Establishes standards for internal audit (e.g., independence of audit personnel)
- External audit may be required if deemed appropriate by the Commissioner, based on size, complexity, and risk profile of the licensee
- Enhanced prudential standards - Applicable to entities servicing 2,000 or more loans and operating in two or more states (excludes reverse mortgage servicers)
- Effective date pending (COMAR 09.03.06)



*Office of the Commissioner of Financial Regulation
Clifford Charland, Assistant Commissioner (Acting)*



Foreclosure Procedures - Changes to Regulation

Changes are to clarify existing regulation and ensure they function as originally intended.

- Establishes expiration criteria for Notices of Intent to Foreclose (NOIs)
- If filing foreclosure without NOI, pursuant to certificate of vacancy or unfitness for habitation, must provide borrower with notice including procedure for challenging
- Establishes secured party duty of good faith and fair dealing in mediation
- Foreclosure cannot proceed if mediator finds that secured party failed to attend a scheduled mediation
- Office of Administrative Hearings to file with court a report on the outcome of the mediation request
- Effective date pending (COMAR 09.03.12)



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Clifford Charland, Assistant Commissioner (Acting)*



Foreclosure Registration System (FRS)

The new NOI submission portal opened July 1, 2021.

- Allows users to create the NOI in the system
- Improves data collection - capturing information from all NOI fields
- More transparency - statewide foreclosure data from the FRS available on our website

NOTE: NOIs from legacy system not automatically imported—users should import their old NOIs to their accounts in the new system.



Maryland Homeowner Assistance Fund

Maryland's Homeowner Assistance Fund (HAF) is administered by the Maryland Department of Housing and Community Development (DHCD).



The Commissioner supports the HAF program goals.

- OCFR has issued guidance for servicers based on application of existing Maryland law and regulation.
- OCFR investigates complaints regarding possible violations.

NOTE: No need to wait for initial contact from DHCD; servicers should onboard to the HAF portal now.

Visit homeownerassistance.maryland.gov for more information (servicer resources are at the bottom of the “Program Overview” page).



Real Estate Education Services (REES) Case

OCFR participated in this multistate investigation regarding falsified education credits, and is monitoring compliance.

Carrington Decision

The 4th Circuit Court of Appeals ruled that nearly all convenience fees are illegal under Maryland law.

- Fees are allowed only if expressly permitted by contract - this is applicable to all types of consumer debts.
- Businesses that have charged such fees should review their records and consult with counsel to discuss any obligations that they may have vis-à-vis their customers.
- Commissioner has issued a consumer advisory; businesses should be prepared for consumer inquiries on this issue, and should ensure that customer service personnel are aware of the issue and are conveying accurate information.
- OCFR monitoring impact of *Carrington* decision on both industry and consumers



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Clifford Charland, Assistant Commissioner (Acting)



Consumer Protection Updates

Sean McEvoy, Assistant Commissioner

Priscilla Wynn, Director of Consumer Services

- Student Loan Ombudsman Updates
- New Maryland Legislation Impacting Consumers
- Data Analysis Capability
- Consumer Complaint Trends
- Consumer Complaints and SES

Student Loan Ombudsman (SLO)

Maryland student loan borrowers can contact the SLO if they are having problems with their servicer(s).

- Provides assistance to Maryland student loan borrowers
- Revised and updated SLO Educational Curriculum with new video modules
- Remain in regular contact with other state SLO's throughout the U.S. to keep apprised of developments and share information and ideas
- Engaged with the U.S. Department of Education on developments regarding student loan account transfers, return to repayment, and the limited Public Service Loan Forgiveness waiver
- For information on the multistate Navient settlement, visit navientagsettlement.com and the Maryland Attorney General's website.



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Sean McEvoy, Assistant Commissioner*



New Maryland Legislation Impacting Consumers

- **HB 128 "Debt Settlement Services – Student Education Loan Debt Relief – Disclosures and Prohibitions"**
 - Passed in response to an increase in nationwide student loan debt relief scams that have victimized borrowers over the last number of years
 - Requires debt settlement service providers engaged in the business of student education debt relief to include disclosure that the company is not affiliated with the U.S. Department of Education and is not a lender
 - Prohibits providers from (1) advising (expressly or by implication) student loan borrowers to cease making scheduled loan payments to (or to cease communicating with) the borrower's student loan servicer or (2) accessing or obtaining a borrower's student aid information in violation of federal law
 - Effective Date - October 1, 2022



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Sean McEvoy, Assistant Commissioner



New Maryland Legislation Impacting Consumers - continued

- **SB 252/HB 804 "Commissioner of Financial Regulation – Enhanced Consumer Protections and Enforcement Tools"**
 - Extends existing limits against unfair, deceptive, and anti-competitive actions to all regulated entities
 - Effective Date - July 1, 2022
- **SB 514/HB 565 "Health Facilities – Hospitals – Medical Debt" (passed in 2021)**
 - Outlines requirements regarding hospital debt collection policies; prohibits sale of hospital debt
 - Health Services Cost Review Commission (HSCRC) Working Group is drafting payment plan guidelines and proposed regulations
 - Effective Date - June 1, 2021 and January 1, 2022



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Sean McEvoy, Assistant Commissioner



Improved Data Analysis Capability

OCFR is focusing its efforts in the upcoming fiscal year on identifying relevant data sources, analyzing them and using the results to improve its management decision-making and help Maryland consumers.

- As a consumer protection agency, OCFR needs good information to inform its actions and to stay up-to-date on and anticipate trends that affect consumers.
- Effectively utilizing data improves the Office's decision-making and assists in strategic planning to further the Office's consumer protection mandate.
- Recognizing the importance of data to the Office, OCFR hired a Director of Trend Analysis and Reporting in December 2021.

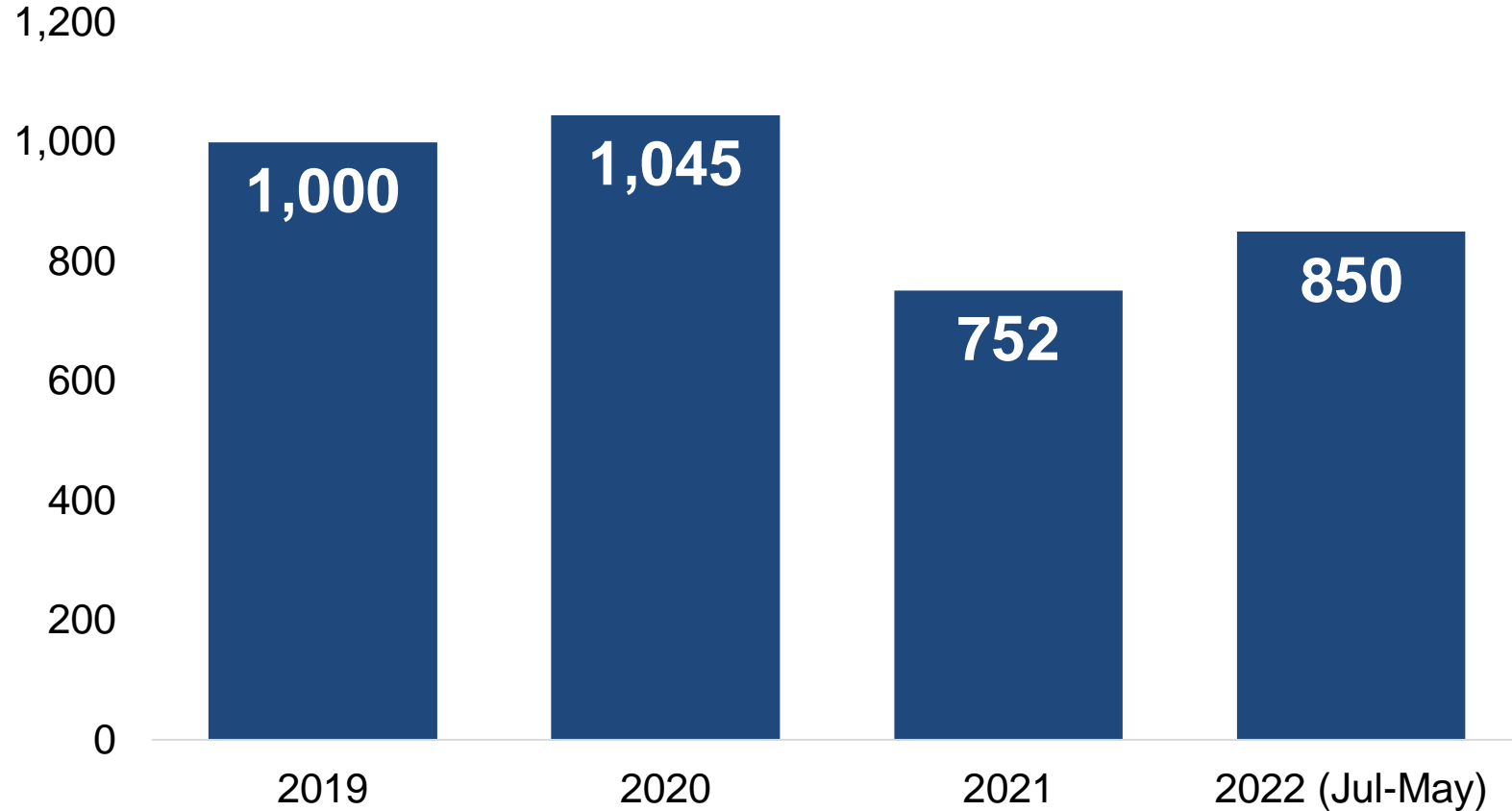


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Sean McEvoy, Assistant Commissioner*



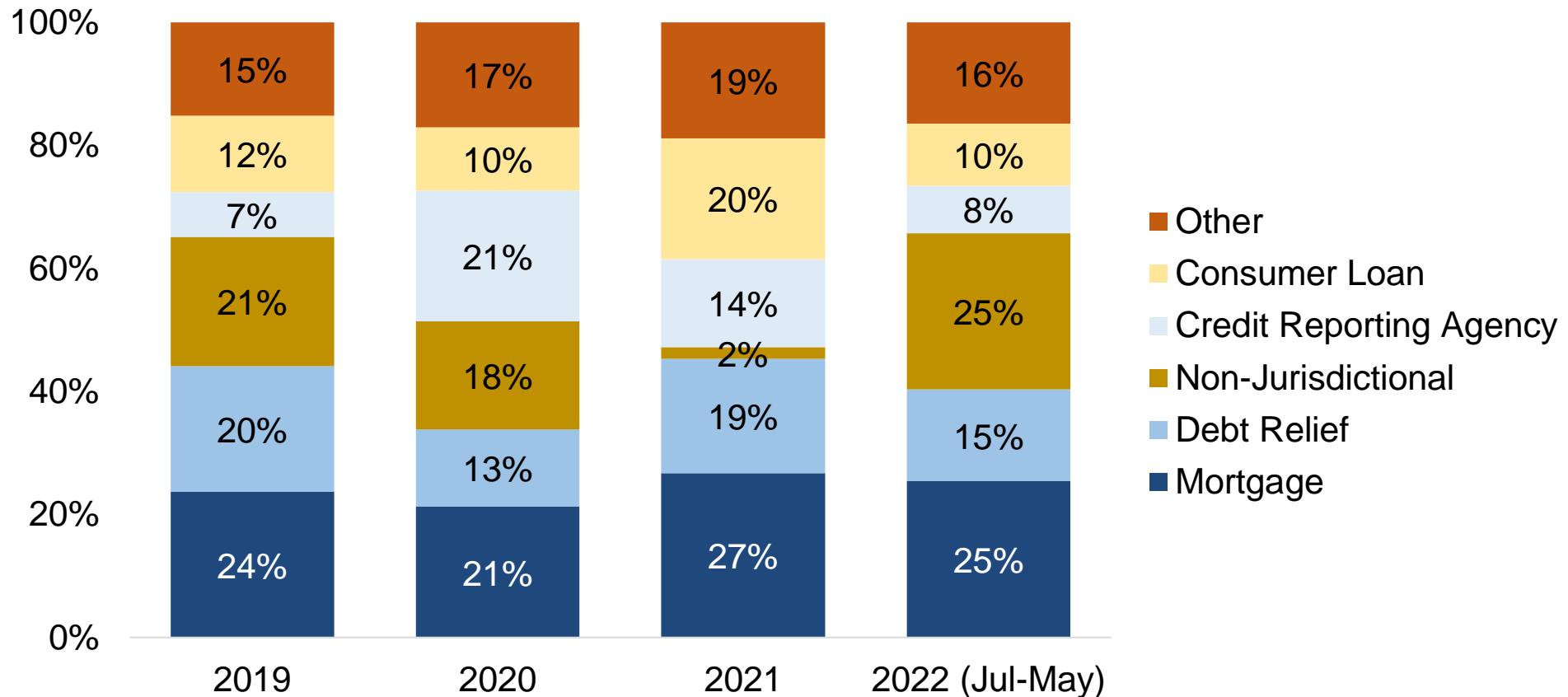
Consumer Complaint Trends

Closed CSU Complaints FY2019-FY2022



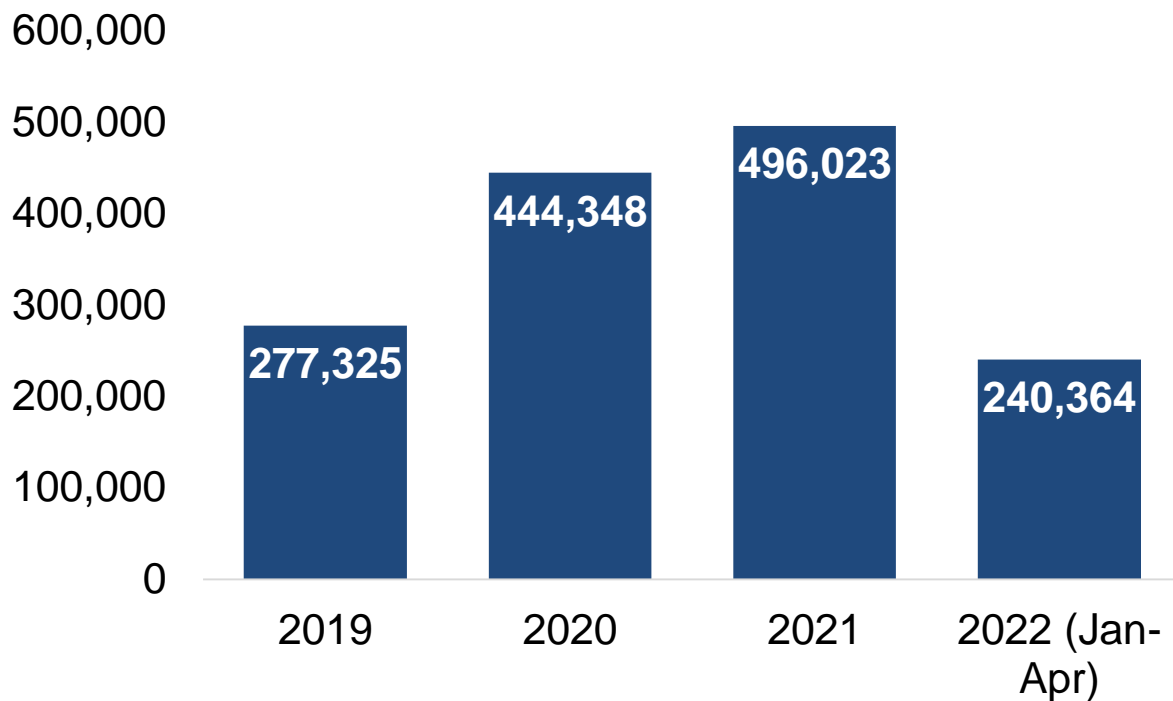
Consumer Complaint Trends

CSU Closed Complaints by Product FY2019-FY2022

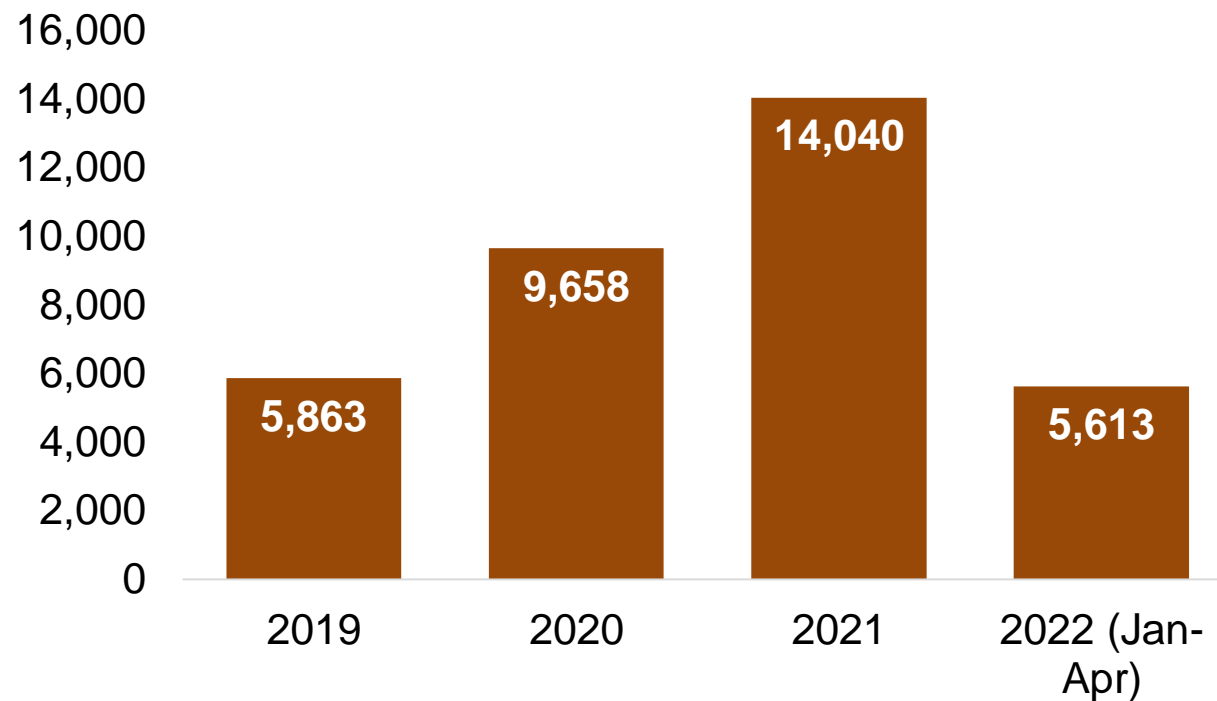


Consumer Complaint Trends

**National CFPB Complaints
CY2019-CY2022**

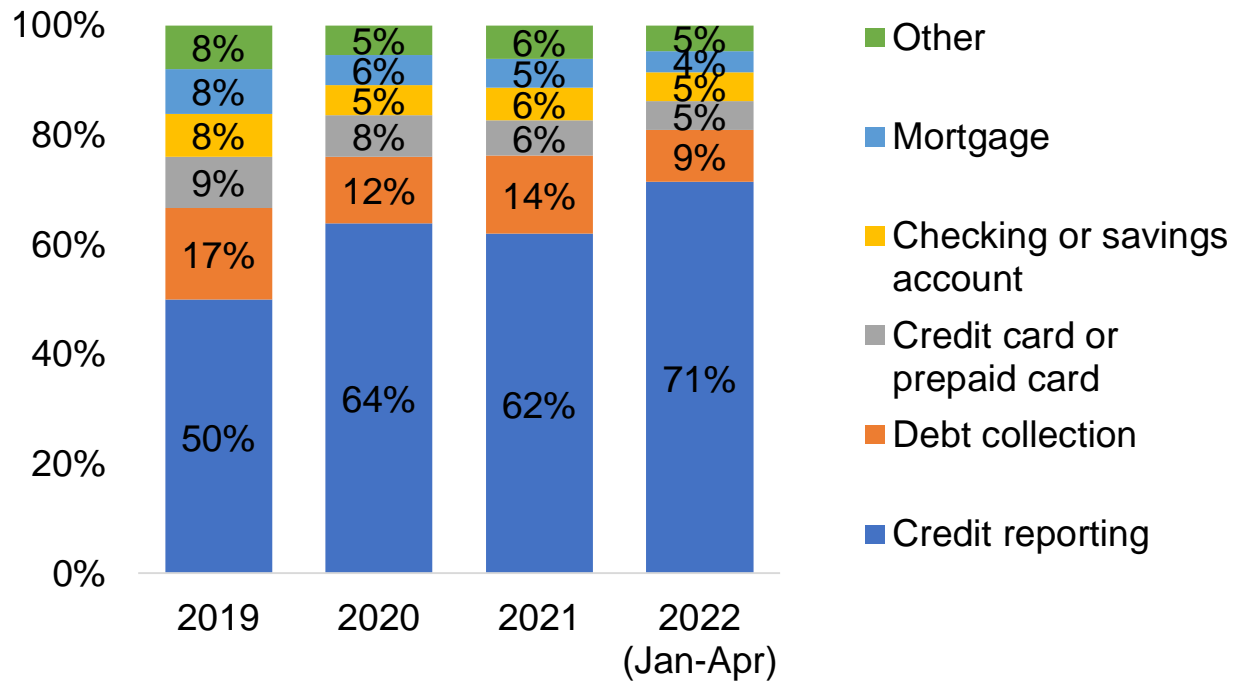


**Maryland-Based CFPB Complaints
CY2019-CY2022**

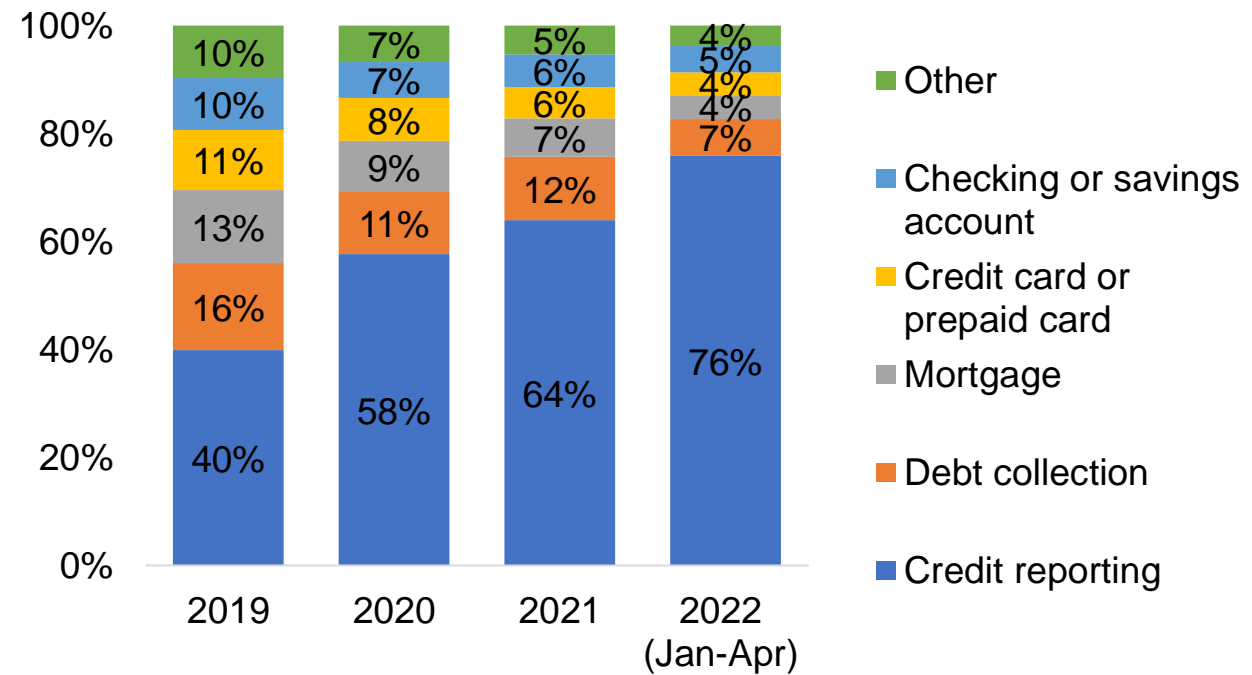


Consumer Complaint Trends

National CFPB Complaints by Product CY2019-CY2022



Maryland-Based CFPB Complaints by Product CY2019-CY2022



SES for Consumer Complaints

OCFR is incorporating SES to help the Office manage its consumer complaints.

- OCFR continues to transition to SES for consumer investigations.
- SES enrollment process for licensees (“Onboarding”)
 - Only have to onboard once with SES
 - Issued Industry Advisory (09/02/21) with detailed instructions for onboarding; available on OCFR website
 - OCFR staff does not have access to your company’s screens on SES.
- Additional onboarding resources:
 - NMLS/SES Customer Portal: nmlsportal.csbs.org/csm
 - NMLS/SES Call Center: 1-800-269-6189
 - OCFR contact for SES/Consumer Complaints:
Karen Brooks, Assistant Director (karen.brooks@maryland.gov)

Failure to onboard with SES when requested = Failure to cooperate with OCFR



*Office of the Commissioner of Financial Regulation
Priscilla Wynn, Director, Consumer Services*



Q&A and Wrap-Up

Question and Answer

- Audience-submitted questions

Wrap-Up

Visit our website for additional resources and updates.

- See the “**Industry Resources**” section for information on obtaining or renewing a Maryland license, registration or charter; applications, forms and additional documents; and Maryland laws, rules, and regulations.

Use the “**Subscribe**” button on our website to sign up for OCFR advisories, alerts, and other emails.

- Add “md-dllr-ocfr@info.maryland.gov” to your email contacts – this will help prevent our messages from being caught by your email provider’s security features or spam filter.

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Office of the Commissioner of Financial Regulation



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